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12 **UNITED STATES DISTRICT COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA**

15 SCOTT L. MONTOYA, et al,

16 Plaintiffs,

17 vs.

18 LAUGH OUT LOUD PRODUCTIONS,
 19 LLC, et al,

20 Defendants.

Case No. LACV 17-07597 JAK (MRWx)

**STIPULATION AND ORDER
 PROTECTING CONFIDENTIAL
 INFORMATION**

21 **STIPULATION AND ORDER PROTECTING**
 22 **CONFIDENTIAL INFORMATION**

23 1. INTRODUCTION

24 1.1 PURPOSES AND LIMITATIONS

25 Discovery in this action is likely to involve production of confidential,
 26 proprietary, or private information for which special protection from public
 27 disclosure and from use for any purpose other than prosecuting this litigation may be
 28 warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter

1 the following Stipulated Protective Order. The parties acknowledge that this Order
2 does not confer blanket protections on all disclosures or responses to discovery and
3 that the protection it affords from public disclosure and use extends only to the
4 limited information or items that are entitled to confidential treatment under the
5 applicable legal principles. The parties further acknowledge, as set forth in Section
6 12.3, below, that this Stipulated Protective Order does not entitle them to file
7 confidential information under seal; Civil Local Rule 79-5 sets forth the procedures
8 that must be followed and the standards that will be applied when a party seeks
9 permission from the court to file material under seal.

10 1.2 GOOD CAUSE STATEMENT

11 This action is likely to involve commercial, financial, and/or proprietary
12 information for which special protection from public disclosure and from use for any
13 purpose other than prosecution of this action is warranted. Such confidential and
14 proprietary materials and information consist of, among other things, confidential
15 business or financial information, information regarding confidential business
16 practices, or other confidential commercial information (including information
17 implicating privacy rights of third parties), information otherwise generally
18 unavailable to the public, or which may be privileged or otherwise protected from
19 disclosure under state or federal statutes, court rules, case decisions, or common law.
20 Accordingly, to expedite the flow of information, to facilitate the prompt resolution
21 of disputes over confidentiality of discovery materials, to adequately protect
22 information the parties are entitled to keep confidential, to ensure that the parties are
23 permitted reasonable necessary uses of such material in preparation for and in the
24 conduct of trial, to address their handling at the end of the litigation, and serve the
25 ends of justice, a protective order for such information is justified in this matter. It is
26 the intent of the parties that information will not be designated as confidential for
27 tactical reasons and that nothing be so designated without a good faith belief that it
28

1 has been maintained in a confidential, non-public manner, and there is good cause
2 why it should not be part of the public record of this case.

3 2. DEFINITIONS

4 2.1 Action: this pending federal law suit.

5 2.2 Challenging Party: a Party or Non-Party that challenges the designation
6 of information or items under this Order.

7 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
8 how it is generated, stored or maintained) or tangible things that qualify for
9 protection under Federal Rule of Civil Procedure 26(c), and as specified above in the
10 Good Cause Statement.

11 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
12 their support staff).

13 2.5 Designating Party: a Party or Non-Party that designates information or
14 items that it produces in disclosures or in responses to discovery as
15 “CONFIDENTIAL.”

16 2.6 Disclosure or Discovery Material: all items or information, regardless
17 of the medium or manner in which it is generated, stored, or maintained (including,
18 among other things, testimony, transcripts, and tangible things), that are produced or
19 generated in disclosures or responses to discovery in this matter.

20 2.7 Expert: a person with specialized knowledge or experience in a matter
21 pertinent to the litigation who has been retained by a Party or its counsel to serve as
22 an expert witness or as a consultant in this Action.

23 2.8 House Counsel: attorneys who are employees of a party to this Action.
24 House Counsel does not include Outside Counsel of Record or any other outside
25 counsel.

26 2.9 Non-Party: any natural person, partnership, corporation, association, or
27 other legal entity not named as a Party to this action.

28 2.10 Outside Counsel of Record: attorneys who are not employees of a party

1 to this Action but are retained to represent or advise a party to this Action and have
2 appeared in this Action on behalf of that party or are affiliated with a law firm which
3 has appeared on behalf of that party, and includes support staff.

4 2.11 Party: any party to this Action, including all of its officers, directors,
5 employees, consultants, retained experts, and Outside Counsel of Record (and their
6 support staffs).

7 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
8 Discovery Material in this Action.

9 2.13 Professional Vendors: persons or entities that provide litigation support
10 services (e.g., photocopying, videotaping, translating, preparing exhibits or
11 demonstrations, and organizing, storing, or retrieving data in any form or medium)
12 and their employees and subcontractors.

13 2.14 Protected Material: any Disclosure or Discovery Material that is
14 designated as “CONFIDENTIAL.”

15 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
16 from a Producing Party.

17 3. SCOPE

18 The protections conferred by this Stipulation and Order cover not only
19 Protected Material (as defined above), but also (1) any information copied or
20 extracted from Protected Material; (2) all copies, excerpts, summaries, or
21 compilations of Protected Material; and (3) any testimony, conversations, or
22 presentations by Parties or their Counsel that might reveal Protected Material. Any
23 use of Protected Material at trial will be governed by the orders of the trial judge.
24 This Order does not govern the use of Protected Material at trial.

25 4. DURATION

26 Even after final disposition of this litigation, the confidentiality obligations
27 imposed by this Order will remain in effect until a Designating Party agrees
28 otherwise in writing or a court order otherwise directs. Final disposition will be

1 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
2 or without prejudice; and (2) final judgment herein after the completion and
3 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
4 including the time limits for filing any motions or applications for extension of time
5 pursuant to applicable law.

6 5. DESIGNATING PROTECTED MATERIAL

7 5.1 Exercise of Restraint and Care in Designating Material for Protection.

8 Each Party or Non-Party that designates information or items for protection under
9 this Order must take care to limit any such designation to specific material that
10 qualifies under the appropriate standards. The Designating Party must designate for
11 protection only those parts of material, documents, items, or oral or written
12 communications that qualify so that other portions of the material, documents, items,
13 or communications for which protection is not warranted are not swept unjustifiably
14 within the ambit of this Order.

15 Mass, indiscriminate, or routinized designations are prohibited. Designations
16 that are shown to be clearly unjustified or that have been made for an improper
17 purpose (e.g., to unnecessarily encumber the case development process or to impose
18 unnecessary expenses and burdens on other parties) may expose the Designating
19 Party to sanctions.

20 If it comes to a Designating Party's attention that information or items that it
21 designated for protection do not qualify for protection, that Designating Party must
22 promptly notify all other Parties that it is withdrawing the inapplicable designation.

23 5.2 Manner and Timing of Designations. Except as otherwise provided in
24 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
25 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
26 under this Order must be clearly so designated before the material is disclosed or
27 produced.

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1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (e.g., paper or electronic
3 documents, but excluding transcripts of depositions or other pretrial or trial
4 proceedings), that the Producing Party affix at a minimum, the legend
5 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
6 contains protected material. If only a portion or portions of the material on a page
7 qualifies for protection, the Producing Party also must clearly identify the protected
8 portion(s) (e.g., by making appropriate markings in the margins).

9 A Party or Non-Party that makes original documents available for
10 inspection need not designate them for protection until after the inspecting Party has
11 indicated which documents it would like copied and produced. During the inspection
12 and before the designation, all of the material made available for inspection will be
13 deemed “CONFIDENTIAL.” After the inspecting Party has identified the documents
14 it wants copied and produced, the Producing Party must determine which documents,
15 or portions thereof, qualify for protection under this Order. Then, before producing
16 the specified documents, the Producing Party must affix the “CONFIDENTIAL
17 legend” to each page that contains Protected Material. If only a portion or portions of
18 the material on a page qualifies for protection, the Producing Party also must clearly
19 identify the protected portion(s) (e.g., by making appropriate markings in the
20 margins).

21 (b) for testimony given in depositions that the Designating Party
22 identify the Disclosure or Discovery Material on the record, before the close of the
23 deposition all protected testimony.

24 (c) for information produced in some form other than documentary
25 and for any other tangible items, that the Producing Party affix in a prominent place
26 on the exterior of the container or containers in which the information is stored the
27 legend “CONFIDENTIAL.” If only a portion or portions of the information warrants
28 protection, the Producing Party, to the extent practicable, will identify the protected

1 portion(s).

2 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
3 failure to designate qualified information or items does not, standing alone, waive the
4 Designating Party's right to secure protection under this Order for such material.
5 Upon timely correction of a designation, the Receiving Party must make reasonable
6 efforts to assure that the material is treated in accordance with the provisions of this
7 Order.

8 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

9 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
10 designation of confidentiality at any time that is consistent with the Court's
11 Scheduling Order.

12 6.2 Meet and Confer. The Challenging Party will initiate the dispute
13 resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1
14 et seq.

15 6.3 The burden of persuasion in any such challenge proceeding will be on
16 the Designating Party. Frivolous challenges, and those made for an improper purpose
17 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
18 expose the Challenging Party to sanctions. Unless the Designating Party has waived
19 or withdrawn the confidentiality designation, all parties will continue to afford the
20 material in question the level of protection to which it is entitled under the Producing
21 Party's designation until the Court rules on the challenge.

22 7. ACCESS TO AND USE OF PROTECTED MATERIAL

23 7.1 Basic Principles. A Receiving Party may use Protected Material that is
24 disclosed or produced by another Party or by a Non-Party in connection with this
25 Action only for prosecuting, defending, or attempting to settle this Action. Such
26 Protected Material may be disclosed only to the categories of persons and under the
27 conditions described in this Order. When the Action has been terminated, a
28 Receiving Party must comply with the provisions of section 13 below (FINAL

1 DISPOSITION).

2 Protected Material must be stored and maintained by a Receiving Party at a
3 location and in a secure manner that ensures that access is limited to the persons
4 authorized under this Order.

5 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
6 otherwise ordered by the court or permitted in writing by the Designating Party, a
7 Receiving Party may disclose any information or item designated
8 “CONFIDENTIAL” only to:

9 (a) the Receiving Party’s Outside Counsel of Record in this Action,
10 as well as employees of said Outside Counsel of Record to whom it is reasonably
11 necessary to disclose the information for this Action;

12 (b) the officers, directors, and employees (including House Counsel)
13 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

14 (c) Experts (as defined in this Order) of the Receiving Party to whom
15 disclosure is reasonably necessary for this Action and who have signed the
16 “Acknowledgment and Agreement to Be Bound” (**Exhibit A**);

17 (d) the Court and its personnel;

18 (e) court reporters and their staff;

19 (f) professional jury or trial consultants, mock jurors, and
20 Professional Vendors to whom disclosure is reasonably necessary for this Action and
21 who have signed the “Acknowledgment and Agreement to Be Bound” (**Exhibit A**);

22 (g) the author or recipient of a document containing the information
23 or a custodian or other person who otherwise possessed or knew the information;

24 (h) during their depositions, witnesses, and attorneys for witnesses, in
25 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
26 party requests that the witness sign the form attached as **Exhibit A** hereto; and (2)
27 they will not be permitted to keep any confidential information unless they sign the
28 “Acknowledgment and Agreement to Be Bound” (**Exhibit A**), unless otherwise

1 agreed by the Designating Party or ordered by the court. Pages of transcribed
2 deposition testimony or exhibits to depositions that reveal Protected Material may be
3 separately bound by the court reporter and may not be disclosed to anyone except as
4 permitted under this Stipulated Protective Order; and

5 (i) any mediator or settlement officer, and their supporting
6 personnel, mutually agreed upon by any of the parties engaged in settlement
7 discussions.

8 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
9 OTHER LITIGATION

10 If a Party is served with a subpoena or a court order issued in other litigation
11 that compels disclosure of any information or items designated in this Action as
12 “CONFIDENTIAL,” that Party must:

13 (a) promptly notify in writing the Designating Party. Such
14 notification will include a copy of the subpoena or court order;

15 (b) promptly notify in writing the party who caused the subpoena or
16 order to issue in the other litigation that some or all of the material covered by the
17 subpoena or order is subject to this Protective Order. Such notification will include a
18 copy of this Stipulated Protective Order; and

19 (c) cooperate with respect to all reasonable procedures sought to be
20 pursued by the Designating Party whose Protected Material may be affected.

21 If the Designating Party timely seeks a protective order, the Party served
22 with the subpoena or court order will not produce any information designated in this
23 action as “CONFIDENTIAL” before a determination by the court from which the
24 subpoena or order issued, unless the Party has obtained the Designating Party’s
25 permission. The Designating Party will bear the burden and expense of seeking
26 protection in that court of its confidential material and nothing in these provisions
27 should be construed as authorizing or encouraging a Receiving Party in this Action to
28 disobey a lawful directive from another court.

1 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
2 PRODUCED IN THIS LITIGATION

3 (a) The terms of this Order are applicable to information produced by
4 a Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
5 produced by Non-Parties in connection with this litigation is protected by the
6 remedies and relief provided by this Order. Nothing in these provisions should be
7 construed as prohibiting a Non-Party from seeking additional protections.

8 (b) In the event that a Party is required, by a valid discovery request,
9 to produce a Non-Party’s confidential information in its possession, and the Party is
10 subject to an agreement with the Non-Party not to produce the Non-Party’s
11 confidential information, then the Party will:

12 (1) promptly notify in writing the Requesting Party and
13 the Non-Party that some or all of the information requested is subject to a
14 confidentiality agreement with a Non-Party;

15 (2) promptly provide the Non-Party with a copy of the
16 Stipulated Protective Order in this Action, the relevant discovery request(s), and a
17 reasonably specific description of the information requested; and

18 (3) make the information requested available for
19 inspection by the Non-Party, if requested.

20 (c) If the Non-Party fails to seek a protective order from this court
21 within 14 days of receiving the notice and accompanying information, the Receiving
22 Party may produce the Non-Party’s confidential information responsive to the
23 discovery request. If the Non-Party timely seeks a protective order, the Receiving
24 Party will not produce any information in its possession or control that is subject to
25 the confidentiality agreement with the Non-Party before a determination by the court.
26 Absent a court order to the contrary, the Non-Party will bear the burden and expense
27 of seeking protection in this court of its Protected Material.

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1 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

2 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
3 Protected Material to any person or in any circumstance not authorized under this
4 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
5 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
6 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
7 persons to whom unauthorized disclosures were made of all the terms of this Order,
8 and (d) request such person or persons to execute the “Acknowledgment and
9 Agreement to Be Bound” that is attached hereto as Exhibit A.

10 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
11 PROTECTED MATERIAL

12 When a Producing Party gives notice to Receiving Parties that certain
13 inadvertently produced material is subject to a claim of privilege or other protection,
14 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
15 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
16 may be established in an e-discovery order that provides for production without prior
17 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
18 parties reach an agreement on the effect of disclosure of a communication or
19 information covered by the attorney-client privilege or work product protection, the
20 parties may incorporate their agreement in the stipulated protective order submitted
21 to the court.

22 12. MISCELLANEOUS

23 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
24 person to seek its modification by the Court in the future.

25 12.2 Right to Assert Other Objections. By stipulating to the entry of this
26 Protective Order no Party waives any right it otherwise would have to object to
27 disclosing or producing any information or item on any ground not addressed in this
28 Stipulated Protective Order. Similarly, no Party waives any right to object on any

1 ground to use in evidence of any of the material covered by this Protective Order.

2 12.3 Filing Protected Material. A Party that seeks to file under seal any
3 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
4 only be filed under seal pursuant to a court order authorizing the sealing of the
5 specific Protected Material at issue. If a Party's request to file Protected Material
6 under seal is denied by the court, then the Receiving Party may file the information
7 in the public record unless otherwise instructed by the court.

8 13. FINAL DISPOSITION

9 After the final disposition of this Action, as defined in paragraph 4, within 60
10 days of a written request by the Designating Party, each Receiving Party must return
11 all Protected Material to the Producing Party or destroy such material. As used in this
12 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
13 summaries, and any other format reproducing or capturing any of the Protected
14 Material. Whether the Protected Material is returned or destroyed, the Receiving
15 Party must submit a written certification to the Producing Party (and, if not the same
16 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
17 (by category, where appropriate) all the Protected Material that was returned or
18 destroyed and (2) affirms that the Receiving Party has not retained any copies,
19 abstracts, compilations, summaries or any other format reproducing or capturing any
20 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
21 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
22 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
23 reports, attorney work product, and consultant and expert work product, even if such
24 materials contain Protected Material. Any such archival copies that contain or
25 constitute Protected Material remain subject to this Protective Order as set forth in
26 Section 4 (DURATION).

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1 14. Any willful violation of this Order may be punished by civil or criminal
2 contempt proceedings, financial or evidentiary sanctions, reference to disciplinary
3 authorities, or other appropriate action at the discretion of the Court.

4
5 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

6
7 Dated: July 16, 2018

INTER ALIA LEGAL, APC

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9 By: /s/ Christopher C. Todd
Christopher C. Todd
Attorneys for Plaintiffs
Scott L. Montoya, LOL Comedy,
Inc. and lolflix, Inc.


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12 Dated: July 16, 2018

HUESTON HENNIGAN LLP

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14 By: /s/ Rajan S. Trehan
Rajan S. Trehan
Attorneys for Defendants
Laugh Out Loud Productions, LLC;
Kevin Hart; Lions Gate
Entertainment Inc.; Hartbeat Digital,
LLC; Jeff Clanagan; Leland
Wigington; Codeblack Enterprises,
LLC; Lyonheart, Inc.; and
ComicRockStar, Inc.

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20 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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23 DATED: July 19, 2018



HON. MICHAEL R. WILNER
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ **[full name]**, of _____
[full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on **[date]** in the case of *Scott L. Montoya, et al. v. Laugh Out Loud Productions, LLC, et al.*, United States District Court, Central District of California Case No. 2:17-cv-07597. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ **[full name]** of _____ **[full address and telephone number]** as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where signed: _____

Printed name: _____

Signature: _____

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing

**STIPULATION AND ORDER PROTECTING
CONFIDENTIAL INFORMATION**

with the Clerk of the Court for the United States District Court for the Central District of California by using the Court's CM/ECF system on July 16, 2018.

I also certify that all participants required to be served in the case are registered CM/ECF users and that service will be accomplished by the Court's CM/ECF system.

Executed on this 16th day of July 2018, at Studio City, California.

/s/ Christopher C. Todd
Christopher C. Todd, Esq.